

Summary of 2009 vs 2013 FDA Food Code

Chapter 1 Purpose and Definitions

Definition Changes

2009: Big 5 Foodborne Illnesses includes the term “Enterohemorrhagic *Escherichia coli*” (EHEC) O157:H7 along with the other 4 illnesses

2013: Deletes “Enterohemorrhagic *Escherichia coli*” (EHEC) O157:H7 as use of EHEC terminology is outdated. Uses the term “Shiga toxin-producing *Escherichia coli*” (STEC), which includes any *E. Coli* capable of producing Shiga toxin. Example of a STEC is *E. Coli* O157:H7

2009: Definition of the term “Packaged”

2013: Clarified definition of packaged food to “Packaged” does not include wrapped or placed in a carry-out container to protect the food during service or delivery to the consumer, by a food employee, upon consumer request.

2009: Uses the term Potentially Hazardous Foods/Time/Temperature Control for Safety (PHF/TCS)

2013: Deletes the term Potentially Hazardous Food (Time/Temperature Control for Safety Food)” (PHF/TCS) and made a universal change throughout the Code to replace it with the term “Time/Temperature Control for Safety Food” (TCS). The definition remains the same.

2009: Definition of Reduced Oxygen Packaging

2013: Revised definition. Deletes the phrase “placed in a hermetically sealed, impermeable bag” and replace it with “vacuum packaged in an impermeable bag” so it clearly defines the sous vide process as outlined in Annex 6(2)(B)(4)(b). It now reads: “Sous vide packaging, in which raw or partially cooked food is vacuum packaged in an impermeable bag, cooked in the bag, rapidly chilled, and refrigerated at temperatures that inhibit the growth of psychrotrophic pathogens.”

Chapter 2 Management and Personnel

Chapter 2-201.11, 2-201.12, 2-201.13

2009: Big 5 Foodborne Illnesses (Norovirus, Hepatitis A, Shigella spp, STEC *E. Coli*, and Salmonella Typhi

2013: Now the Big 6, to include all non-typhoidal Salmonella (NTS)

2-301.14(H) When to Wash Hands

2009: Employee must wash hands before donning gloves

2013: Clarifies that if a person is still working with the same food product and contamination has not occurred, then the employee may change gloves and continue working with the same product, while not being required to wash hands

2-301.16(A)(2) Hand Antiseptics

2009: Describes that hand antiseptics comply with an FDA publication based on the safety and effectiveness

2013: Deleted section (A)(2)(b)(i-ii) and added new subparagraphs (A)(2)(b-e) to clarify and align the codified text with applicable CFR’s and the FD&C Act with regard to the use of hand antiseptics as a food additive.

Chapter 3 Food

3-201.16(A) Wild Mushrooms

2009: Mushroom species picked in the wild shall be obtained from sources where each mushroom is individually inspected and found to be safe by an APPROVED mushroom identification expert

2013: Removed the need for an approved mushroom identification expert and now recognizes a regulatory authority’s ability to approve the sale of wild mushrooms within a food establishment

3-301.11(D) Preventing Contamination from Hands

2009: Requires a written procedure to touch foods with bare hands

2013: Revised subparagraph (D)(2) to clarify that Paragraph (B) does not apply where a ready-to-eat food is added as an ingredient to another food that does not contain a raw animal food and the combined product will be heated to at least 63°C (145°F). This allows for touching ready to eat foods with bare hands if the ready to eat food is an ingredient that will be heated to at least 63°C (145°F).

3-302.11 Packaged and Unpackaged Food-Separation, Packaging, and Segregation

2009: Cleaning EQUIPMENT and UTENSILS as specified under ¶ 4-602.11(A) and SANITIZING as specified under § 4-703.11

2013: Removed above subparagraph and renumbered the remaining paragraphs

3-304.11 Food Contact with Equipment and Utensils

2009: Defines what food can come into contact with

2013: Added a new paragraph that clarifies that food may contact surfaces of linens and napkins

3-304.13 Linens and Napkins, Use Limitation

2009: Allows for linens and napkins to be used in contact with food if they are used to line a container for the service of food and then replaced each time the container is refilled for a new consumer

2013: Clarified that napkins in this section refers to cloth napkins and they are by definition considered linens.

3-304.17 Refilling Returnables

2009: Returnable containers cannot be refilled with a PHF/TCS product

2013: This now allows for a consumer to bring a refillable container to an establishment (to fill with TCS food or drink), but the container must meet specific requirements such as: material of good construction, in good repair, can be cleaned and sanitized, and can be visually inspected.

3-401.14 Non Continuous Cooking of Raw Animal Foods

2009: Requires that when an establishment is cooking raw animal food using a non-continuous method (ex. placing grill marks on a steak that will be cooked at a later time), the food must then be cooked to temperature that heats all parts of the food to 165°F for 15 seconds (does not matter what the original cooking requirement is of the raw animal food)

2013: Revises paragraph D to allow that the raw animal food that is being cooked in a non-continuous method can now follow normal cooking requirements (3-401.11 (A)-(C)). (Does not require a final cooking temperature of 165°F for 15 seconds for all food products)

3-402.11 Parasite Destruction

2009: Defines freezing requirements for parasite destruction and exemptions

2013: Added a new paragraph to clarify that scallop products consisting solely of the shucked adductor muscle are excluded from the requirements for parasite destruction and re-numbered existing paragraphs

3-403.11 Reheating and Hot Holding

2009: Requires that ready to eat food from a commercially processed plant must be reheated to 135°F for hot-holding.

2013: Clarifies paragraph 3-403.11(C) and states that this provision applies to all commercially processed (pre-cooked) TCS foods that are ready-to-eat. The product must be reheated to 135°F.

3-501.13 Thawing

2009: Describes proper thawing

2013: Added new paragraph which specifies that frozen fish which have been packaged using a ROP method be removed from the ROP environment either prior to initiating thawing procedures under refrigeration or immediately upon completion of thawing. It also clarifies that “time of use” means when removed from packaging, such as when fish is thawed in the establishment.

3-501.17 Ready to Eat, Time/Temperature Control for Safety Food, Date Marking

2009: Requirements for date marking

2013: Added new paragraph that exempts raw, live in-shell molluscan shellfish from date marking and re-numbers paragraphs.

Also, the code amended an existing subparagraph to clarify that the exemption from date marking for shelf stable dry fermented sausages produced in USDA-regulated facilities is not dependent on the product retaining the original casing. Due to this, paragraphs were re-numbered.

3-502.11 Variance Requirement

2009: Reviews when a variance is required

2013: Amended to revise paragraph D to clarify that only TCS foods prepared under ROP methods that do not control for growth of and toxin formation by *Clostridium botulinum* and the growth of *Listeria monocytogenes* require a variance.

3-502.12 Reduced Oxygen Packaging Without a Variance, Criteria

3-502.12 (B) Reduced Oxygen Packaging (ROP)

2009: Package of TCS food that has been package by using ROP must discard the food within 14 days

2013: Package of TCS food that has been package by using ROP must discard the food within 30 days

New paragraph specifying that a HACCP plan be provided to the regulatory authority prior to inspection.

3-502.12 (D) Cook-Chill or Sous Vide

2009: Cook-Chill or Sous Vide: After proper cooking, can hold product for 72 hours before discarding

2013: Cook-Chill or Sous Vide: amended paragraph to delete the word “FOOD” and replace it with the term “Time/Temperature control for safety food” to clarify that this section applies to TCS food.

2013: Cook-Chill or Sous Vide: amended subparagraph to allow for cold holding at 41°F for 7 days after cooling to 41°F.

3-502.12 (F) HACCP Plan not required when a food establishment uses ROP to package TCS

2009: Does not exist

2013: New paragraph added to identify the conditions under which a HACCP Plan is not required for ROP TCS foods (labeled, held at 41°F, removed from its package within 48 hours of being packaged)

Amended paragraphs (B), (D), and (E) lead-in paragraphs to reference new paragraph (F) of this section.

Amended paragraph (B) lead in paragraph and subparagraphs (B)(6)(c), (D)(1), and (E)(2) to reference ¶8-201.14(B) along with existing reference to ¶ (D).

Amended to delete existing subparagraph 3-502.12(D)(2)(e)(iii) and amended subparagraph 3-502.12(D)(2)(e)(iv) to renumber it as the new subparagraph (D)(2)(e)(iii).

3-602.11 Food Labels

2009: Defined food label requirements

2013: Amended paragraph B to clarify the information that a label should include. The term “sub ingredients” was added to this subparagraph to clarify that individual component ingredients of a main ingredient must be disclosed in the statement of ingredients. This clarification helps to make clear that all individual ingredients in a packaged food will be disclosed in the statement of ingredients.

Chapter 4 Equipment Utensils and Linens

4-302.13 Temperature Measuring Devices, Manual and Mechanical Warewashing

2009: Section called Temperature Measuring Devices, Manual Warewashing

2013: Added the term Mechanical to the tagline to now read: Temperature Measuring Devices, Manual and Mechanical Warewashing

Also, Paragraph B now changes the term “temperature measuring device” (thermometer) to “irreversible registering temperature indicator” shall be provided and readily accessible for reading utensil surface temperature in hot water mechanical dish machines.

4-602.11 (B) Equipment Food –Contact Surfaces and Utensils

2009: Describes the exemption to cleaning (if food contact surface then is used for a food with a higher cooking temperature requirement, such as a cutting board used to cut raw fish, then raw chicken)

2013: Amended paragraph to only allow between raw animal foods that are not a major food allergen, such as fish. (ex. if a fish product was cut on a cutting board, the board would now be required to be cleaned and sanitized before another food product, due to possible allergen contamination).

4-802.11 Laundering Specifications

2009: Defined frequency of cleaning linens

2013: Amended paragraph to clarify that napkin in this section refers to cloth napkins and they are by definition considered linens

Chapter 7 Poisonous or Toxic Materials

7-204.12 Chemicals for Washing, Treatment, Storage and Processing Fruits and Vegetables, Criteria.

2009: Defined requirements for using chemicals to wash produce.

2013: Amended paragraph A into a lead-in paragraph with four new subparagraphs: Added 21 CFR 173 Secondary Direct Food Additives Permitted in Food for Human Consumption as new subparagraph (A)(1); Added GRAS ingredients as new subparagraph (A)(2); Added effective food contact notifications as new subparagraph (A)(3); Added 40 CFR 156 Labeling Requirements for Pesticides and Devices as new subparagraph (A)(4) to allow the use of other antimicrobial agents allowed under the food contact notification program for washing fruits and vegetables as well as GRAS ingredients permitted as antimicrobials or for general food use.

Chapter 8 Compliance and Enforcement

8-201.13 When a HACCP Plan is Required

2009: Defined when a HACCP plan is required

2013: Amended paragraph B to add new language to have the food establishment notify the Regulatory Authority through submission of a HACCP plan that they will be conducting ROP operations (Before engaging in Reduced Oxygen Packaging, a business must submit to the Department a HACCP plan).

8-304.11 Responsibility of the Permit Holder

2009: Requirements of a permit holder to retain a permit

2013: Added a new paragraph which requires the permit holder to post a sign or placard notifying the public that inspectional information is available for review.